

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 04-20038-BC  
Honorable David M. Lawson

DAVID WARREN TICE, JR.,

Defendant.

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**ORDER ALLOWING THE PARTIES TO FILE ADDITIONAL BRIEFS AND  
ORDERING AGENT CECIL'S PERSONNEL FILE PRESERVED**

This matter is before the Court on the motion by the defendant, David Tice, to suppress evidence seized pursuant to a search warrant or, alternatively, for a hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978). The defendant alleges that the affidavit contains false and misleading information and the information in the affidavit came from an informant who has not been shown to be reliable. On January 5, 2006, the Court held a hearing on the motion, and the parties presented arguments on the record in open court. The parties agreed that the affidavit could support a finding of probable cause, even if stripped of all allegedly false or misleading information, if the informant could be considered reliable. The Court determined that a hearing is not necessary to determine this issue, and the parties sought leave to submit supplemental briefs on the informant's reliability.

On December 22, 2005, the Court ordered the government to produce the personnel file of FBI Agent John Cecil for an *in camera* review to determine whether it contained any material that might be exculpatory or otherwise favorable to the defendant. The file was produced on January 4, 2006. The Court has reviewed the file and determined that it does not contain any such material.

The file will be returned to the FBI with orders that it be preserved intact until the expiration of all appeal periods.

Accordingly, it is **ORDERED** that the defendant may file a brief discussing the informant's reliability on or before **January 26, 2006**.

It is further **ORDERED** that the government may file a response brief on or before **February 9, 2006**.

It is further **ORDERED** that Agent Cecil's personnel file be maintained intact by the custodian of the file without any deletions throughout the pendency of this case and through the expiration of all appeals. Additions may be made to the file if they are done in the normal course of business.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: January 6, 2006

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 6, 2006.

s/Tracy A. Jacobs  
TRACY A. JACOBS